

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, JANUARY 2, 2002**

**C-1     CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of January 2, 2002 was called to order by Mayor Pennino at 6:17 p.m.

Present: Council Members – Hitchcock (arrived at 6:25 p.m.), Howard, Land, Nakanishi, and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

**C-2     ANNOUNCEMENT OF CLOSED SESSION**

- a) Prospective acquisition of real property located at 402 E. Sargent Road, Lodi, CA (APN 027-040-03); the negotiating parties are City of Lodi and Noble D. Fore, II et al.; Government Code §54956.8 (CD)
- b) Prospective lease of property located at 322 W. Locust Street, Lodi, CA (APN 037-270-11), to house the Fire Administrative offices; the negotiating parties are the City of Lodi and Gary Buzunis; price and terms of the lease are under negotiation; Government Code §54956.8 (FD)

**C-3     ADJOURN TO CLOSED SESSION**

At 6:17 p.m., Mayor Pennino adjourned the meeting to Closed Session to discuss the above matters.

The Closed Session adjourned at 6:45 p.m.

**C-4     RETURN TO OPEN SESSION / DISCLOSURE OF ACTION**

At 7:01 p.m., Mayor Pennino reconvened the City Council meeting, and City Attorney Hays disclosed the following actions.

In regard to Item C-2 (a), the City Council authorized staff to begin the acquisition process by having an appraisal done on the property located at 402 E. Sargent Road, Lodi (APN 027-040-03).

In regard to Item C-2 (b), the City Council indicated that it did not wish to consider at this time the lease of the property located at 322 W. Locust Street, Lodi (APN 037-270-11).

**A.     CALL TO ORDER / ROLL CALL**

The Regular City Council meeting of January 2, 2002 was called to order by Mayor Pennino at 7:01 p.m.

Present: Council Members – Hitchcock, Howard, Land, Nakanishi, and Mayor Pennino

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

**B.     INVOCATION**

The invocation was given by Pastor James Harvey, Lodi Community Church.

**C.     PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Pennino.

**D.     AWARDS / PROCLAMATIONS / PRESENTATIONS**

D-1     Awards – None

D-2     Proclamations – None

- D-3 (a) Theresa Yvonne, Arts Coordinator and staff liaison to the Lodi Arts Commission, updated the City Council on the activities and accomplishments of the Lodi Arts Commission.
- D-3 (b) Following introduction by Mayor Pennino, Jeff Solomon, Chief with the Grant Union High School District Police, presented awards to Police Chief Jerry Adams, Acting Captain David Main, and Lieutenant Gary Benincasa in appreciation to the Lodi Police Department for the technical and managerial support it provided to the Grant Union High School District Police as part of its joint partnership.
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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Howard second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$8,106,775.64.
- E-2 The minutes of October 23, 2001 (Shirtsleeve Session), October 25, 2001 (Special "Town Hall" Meeting), November 13, 2001 (Shirtsleeve Session), and November 27, 2001 (Shirtsleeve Session) were approved as written.
- E-3 "Adopt resolution authorizing the purchase of a combination printer, fax, and copy machine for Lodi Police Department Investigations Unit using technology grant funds (\$13,000)" was ***pulled from the agenda pursuant to staff's request***.
- E-4 Adopted Resolution No. 2002-01 awarding the contract for Pedestrian Push Buttons and Sign Plates, Various Locations, to ForTel Traffic, Inc., of Hollister, in the amount of \$19,640; and appropriated funds in accordance with staff recommendation.
- E-5 Received Contract Change Orders and accepted the improvements under the "Mills Avenue, Vine Street, and Ham Lane Asphalt Concrete Resurfacing" contract.
- E-6 Received Contract Change Orders for Fire Station #4, 180 N. Lower Sacramento Road.
- E-7 Took the following actions with regard to the Century Meadows Three, Unit No. 5 subdivision:
- Approved the addendum to the improvement agreement for the public improvements of Century Meadows Three, Unit No. 5, Tract No. 2976, and directed the City Manager and City Clerk to execute the addendum on behalf of the City.
  - Rescinded the improvement agreement for the public improvements of Century Meadows One, Unit No. 2, Tract No. 2786, Master Storm Drainage Facilities, approved by the City Council on October 17, 2001.
  - Appropriate funds for required reimbursements.
- E-8 Authorized the City Manager to execute an agreement with Wenell Mattheis Bowe for a concept plan for renovation of the existing Public Safety Building and appropriated funds in accordance with staff recommendation.
- E-9 Adopted Resolution No. 2002-02 authorizing the City Manager to execute CALFED Grant Agreement No. 4600001713 accepting a grant for approximately \$75,000 for a Lower Mokelumne River Watershed Education Project.
- E-10 Authorized the City Manager to issue request for proposals for the removal of existing homes located on the new Police facility site.
- E-11 Authorized the City Manager to issue request for proposals for National Pollutant Discharge Elimination System Phase II Stormwater Management Plan.

- E-12 Adopted Resolution No. 2002-03 authorizing destruction of certain records retained by the Lodi Police Department in excess of five years of age.
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Janet Keeter, speaking on behalf of the Lodi Boys and Girls Club Board of Directors, invited the Council to attend the 2<sup>nd</sup> Annual Crab Feed on January 19.

G. PUBLIC HEARINGS

- G-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the public hearing to consider unmet transit needs in Lodi.

Public Works Director Prima explained that the purpose of the unmet transit needs hearing is to provide a formal opportunity for the public and Council to make comments regarding transit services for the citizenry.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

Council Member Nakanishi reported that he had received a letter from a visitor complaining that there was only one taxicab company serving the City, which was unable to provide timely service when he called at 2:30 a.m.

Carlos Tobar, Transportation Manager, noted that he would pass this information on to the appropriate agency.

In response to questions posed by Mayor Pro Tempore Hitchcock, Mr. Tobar reported that Lodi has service through Dial-A-Ride 24 hours a day, seven days a week. Reservations must be called in one day in advance. In reference to able-bodied individuals riding Dial-A-Ride, Mr. Tobar stated that staff will seek advice from the Federal Transit Administration regarding how other communities have dealt with the issue and report back to Council in two weeks.

MOTION / VOTE:

There was no action required by the City Council on this issue.

- G-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the public hearing to consider the Planning Commission's recommendation that the City Council adopt the 2001 Growth Management Allocations.

Community Development Director Bartlam reported that each year the City allocates residential building permits for a projected 2% growth in population. This year the City has 432 units available to allocate, and of these, 281 are single-family residential units. Mr. Bartlam described the Almond Wood Estates development plan and noted that it has requested 74 allocations. There are 1,012 units available in unused allocations. No requests have been made for medium- or high-density allocations. Mr. Bartlam stated that staff intends to discuss the issue of unused allocations at a Shirtsleeve Session in March. He noted that a corrected staff report on this item was distributed to Council (filed).

General discussion ensued regarding current housing developments and the home building economy.

In answer to Council Member Howard's inquiry, Mr. Bartlam stated that there are approximately 76 lots in the Lucky property development.

Council Member Nakanishi asked how long it would be before the City is fully built. Mr. Bartlam predicted it would be 2015 to 2020 before Lodi reached 2% growth.

In reply to Council Member Land's concern regarding the lack of medium- and high-density housing, Mr. Bartlam stated that the City's responsibility is to ensure that barriers do not exist, which would prevent that kind of housing from being produced. This issue will also be discussed at the March Shirtsleeve Session, as well as next year, when the housing element update is being considered.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

Mayor Pro Tempore Hitchcock expressed concern that housing continues to be built without having infrastructure in place, i.e. adequate number of schools. She pointed out that 900 allocations outstanding represents the size of a year-round elementary or middle school. She asked for information pertaining to Proposition 1A, which she believed allowed cities to deny development when the state ran out of funds for schools.

Mr. Bartlam replied that he would research the provision.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Howard second, unanimously adopted Resolution No. 2002-04 approving the 2001 Growth Management Allocations.

- G-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pennino called for the public hearing to consider the Planning Commission's recommendation of approval to the City Council to amend the General Plan designation from ER, Eastside Residential to O, Office, and a change in zoning designation from RE-1, Single-Family Residential Eastside to RCP, Residential Commercial Professional for properties located at 314 and 322 West Locust Street.

Community Development Director Bartlam reported that St. John's Episcopal Church has relocated to a new facility on Lower Sacramento Road and plans to sell the property on Locust Street. Prospective purchaser Gary Buzunis is requesting that a 100-foot portion of the property be rezoned to allow for its use as professional office space. The balance of the property would remain zoned as single-family.

Hearing Opened to the Public

- a) Gary Buzunis addressed the Council and announced that he was prepared to answer any questions they may have.
- b) Bob Johnson stated that the recommended rezoning of this property appears to be contrary to previous Council action to prevent further conversion of single-family property near the downtown area, to commercial.

Mr. Bartlam responded that this is a unique situation that deserves independent attention. Without the recommended rezoning, the building would have to be removed from the property.

Mayor Pro Tempore Hitchcock believed that the integrity of the neighborhood should be preserved.

In answer to Council inquiries, Mr. Bartlam confirmed that any significant architectural change would be brought before the Site Plan and Architectural Review Committee for review. He reiterated that if the rezoning is not approved the existing building would have to be removed and the new owner would have no other option than to build a single-family dwelling.

Council Member Howard stated that it is in the best interest of the neighborhood to keep the property zoned as Single-Family Residential. She expressed concern over possible inconsistencies and future unknown use and design if the property were rezoned to RCP. She suggested relocating the existing building to a more suitable site.

Public Portion of Hearing Closed

MOTION:

Council Member Land made a motion, Nakanishi second, to take the following actions:

- Adopt Resolution No. 2002-05 entitled, "A Resolution of the Lodi City Council Amending the Land Use Element of the Lodi General Plan by Redesignation 314 and 322 West Locust Street (APN 037-270-11) from ER, Eastside Residential to O, Office"; and
- Introduce Ordinance No. 1708 entitled, "An Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning 314 and 322 West Locust Street (APN 037-270-11) from RE-1, Single-Family Residential Eastside to RCP, Residential Commercial Professional."

DISCUSSION:

In answer to Mayor Pro Tempore Hitchcock, Mr. Bartlam explained that a use variance is prohibited in state law. He stated that the RCP zone has the ability to transition downtown through professional office, which has the least amount of impact to residential property. He noted that it would be difficult and cost prohibitive to relocate the existing building because it is 4,000 square feet, and a half-acre site would be needed to accommodate it. In the current location, parking would be provided off the alley in the back of the property.

Mayor Pennino stated that the neighbors like the existing building and would prefer that it remain on the property.

Council Member Nakanishi believed that the rezoning recommendation by the Planning Commission was a good compromise for the property. He pointed out that no neighborhood residents appeared at tonight's meeting in opposition to the rezoning.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Land, Nakanishi, and Mayor Pennino

Noes: Council Members – Howard

Absent: Council Members – None

H. COMMUNICATIONS

H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), and Human Resources staff, the City Council, on motion of Mayor Pro Tempore Hitchcock, Howard second, unanimously rejected the following claims:

- a) Kenneth C. Spivey, date of loss 5/25/01
- b) Kenneth C. Spivey, date of loss 5/26/01

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 Appointments – None

H-4 Miscellaneous – None

I. REGULAR CALENDAR

- I-1 "Adopt resolution approving job specification and salary range for the position of Facilities Supervisor"

Management Analyst Trainee, Amy Flores, reported that the position of Facilities Supervisor was approved in the 2001-2002 Public Works budget. The position oversees facility maintenance workers and the City's contracted services for that division. If approved, the position would be placed in the maintenance and operators bargaining unit.

MOTION/ VOTE:

The City Council, on motion of Council Member Land, Hitchcock second, unanimously adopted Resolution No. 2002-06 approving the job specification and the following salary range for the position of Facilities Supervisor.

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
\$3,270.19	\$3,433.70	\$3,605.38	\$3,785.65	\$3,974.94

- I-2 "Adopt resolution approving job specification and salary range for the position of Construction Project Manager"

Management Analyst Trainee, Amy Flores, reported that the position of Construction Project Manager was approved in the 2001-2002 Public Works budget. The position would oversee and coordinate construction projects for City buildings, including the new Public Safety Building, the east side Electric Utility complex, the new Animal Services Facility, the purchasing offices and warehouse, and other buildings as proposed. This position will report directly to the Public Works Director and if approved, will be placed in the mid-management bargaining unit.

MOTION / VOTE:

The City Council, on motion of Council Member Howard, Hitchcock second, unanimously adopted Resolution No. 2002-07 approving the job specification and the following salary range for the position of Construction Project Manager.

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
\$4,111.77	\$4,317.36	\$4,533.22	\$4,759.89	\$4,997.88

- I-3 "Report to the City Council – Financial Audit for Fiscal Year 2000-01 to receive: 1) The Combined Annual Financial and Single Audit Report and 2) Report on Applying Agree-upon Procedures"

Finance Director McAthie reported that the City auditors from KPMG have completed their financial audit for fiscal year 2000-2001. For the eighth year in a row, Finance has received the national and state awards for excellence in reporting. She thanked her accounting staff and in particular, Ruby Paiste and Cory Wadlow. Ms. McAthie introduced Steven DeVetter, Partner, and Marvin Dozier, Senior Manager of KPMG.

Steven DeVetter stated that auditors looked at the Federal Transit grant formula and made three findings:

1. Financial reporting – recommend strengthening of the review process and internal controls over the reporting.
2. Buy America documentation – one off-transaction, where the City assumed a purchase contract for five buses and some of the required grant documentation was not completed in due course.
3. Davis Bacon Act – one of the items did not have the certification of the prevailing wage document in the file.

Referencing the difference between revenues and expenses in the general fund, Mr. DeVetter reported that the City had a \$.9 million decrease in the current year; however, it was off-set by a \$1 million increase due to a change in accounting principle. In reference to the balance sheet, Mr. DeVetter reported that the undesignated general fund balance is 11% of the City's operating expenses and noted that the City's goal is 15%.

Mr. DeVetter stated that KPMG's goal is to provide reasonable assurance that the financial statements are free of material misstatements, which it has done. The significant accounting policies are described in the notes of the financial statements. Management, judgements, and estimates are an integral part of the financial statements and were looked at as part of the audit process. The auditors were comfortable with the estimates embodied in the financial statements. There were no audit adjustments during the year that caused concern over the City's financial reporting process. There was one uncorrected immaterial audit difference dealing with new revenue recording rules. On one grant the City took a conservative position and is reflecting deferred revenue for roughly \$100,000 of the grant. Information outside of the basic financial statement is not audited. There were no disagreements with management regarding accounting issues on the audit process.

In response to Council Member Nakanishi, Mr. DeVetter confirmed that \$3.4 million is the unreserved, undesignated general fund balance.

Mayor Pennino requested that staff provide a breakdown of the \$524,000 listed on page xii, Investment on Rental Income.

Council Member Land commended Ms. McAthie and her staff for earning the Excellence in Reporting award, and City Manager Flynn for his control over the budget. Referencing page 48 of the Comprehensive Annual Financial Report (filed) he pointed out that every department had a favorable variance.

City Manager Flynn confirmed that the findings would be corrected and Council would be informed via a memorandum.

MOTION / VOTE:

Council Member Howard made a motion, Land second, to receive for file the following reports and financial statements submitted by KPMG LLP and the Finance Department for Fiscal Year 2000-01:

- The Combined Annual Financial and Single Audit Report
- Report on Applying Agree-upon Procedures

DISCUSSION:

In reply to Council Member Nakanishi, Ms. McAthie confirmed that the total reserves Citywide is approximately 15%.

VOTE:

The above motion carried by a unanimous vote.

RECESS

At 8:20 p.m., Mayor Pennino called for a recess and the City Council meeting reconvened at 8:33 p.m.

I. REGULAR CALENDAR (Continued)

- I-4 "Discussion regarding including the Electric Market Cost Adjustment in the calculation of the in-lieu of tax transfer from Electric Utility to the General Fund"

City Manager Flynn distributed copies to Council of sections from previous City Council meeting minutes and a worksheet entitled COP Financing (filed).

Deputy City Manager Keeter reported that at the Shirtsleeve Session on December 19, 2000 Electric Utility Director Vallow referenced the general fund transfer and described it as earnings per share and likened it to a return to the investors. At the Shirtsleeve Session on April 10, 2001 Finance Director McAthie verified that the fuel adjustment cost would be included in the budget. A public hearing was held on April 18, 2001 to adopt the Market Cost Adjustment (MCA) policy and mechanism, at which the Council voted 4-0, with one abstention, to approve the MCA. At the Shirtsleeve Session on June 19, 2001 it was identified that the \$3.39 million under "other sources and uses" is salary savings by budgeting at E step and hiring at A step, carryover from the last two-year budget, anticipated grants, hiring lag savings, and the MCA for Electric Utility. These minutes also noted that the \$3.3 million on line 24 represents carryover from the last budget, salary savings, anticipated additional revenue from electric rates, and miscellaneous revenues, such as anticipated grants. Page B-9 of the budget document describes that the in-lieu of taxes for Electric Utility will be levied based on prior year revenues, which for the Utility represents 12% of the revenues. Ms. Keeter stated that at the time the budget was prepared staff felt that the 12% transfer from the MCA to the general fund was disclosed, and was consistent with the policy adopted by the Council. She requested clarification from Council as to whether staff should proceed with including the \$900,000 in the fund balance or if Council wishes to change the policy and exclude that transfer to the general fund.

City Manager Flynn pointed out that the \$900,000 was important in creating a balanced budget. He stated that if Council were to decide not to make the transfer, it would not result in a change to the MCA, as it represents only 2.5% of the overall electric rates.

In reply to Mayor Pro Tempore Hitchcock, City Attorney Hays stated that a percentage of the Electric Utility revenues is designated as in-lieu and from that perspective this (\$900,000) is part of the revenues.

Mayor Pro Tempore Hitchcock felt that the Utility should be charging ratepayers exactly what is needed for the MCA, and that a percentage of this amount should not be transferred to the general fund.

PUBLIC COMMENTS:

- Bob Johnson urged Council to approve the \$900,000 transfer, as to do otherwise, could negatively effect action to be considered under Item I-5.

Mayor Pennino believed that if Council decided that it was not its intent to transfer the \$900,000, it could be worked out without impacting proposed projects.

In reply to Mayor Pennino, Finance Director McAthie confirmed that \$900,000 was placed in the budget for one year, it was not put in as an extended amount.

Council Member Howard stated it was her recollection that when the rates were increased it was to cover costs; however, it was also her understanding that revenues in general can come from a number of different sources and it is the City's policy to transfer 12% to the general fund. She suggested that Council not change the policy at this time and, if necessary, consider it during the next budget cycle.



Council Member Land concurred with Ms. Howard's comments. He was opposed to reducing the transfer at this time, at the sacrifice of services, programs, and capital projects. He agreed that it would be more appropriate to consider a change in policy during the next budget cycle.

Ms. McAthie clarified that the transfer would take place at the end of this year. She commented that if the enterprise funds were to be treated as a business, the general fund would be entitled to 12% of the MCA.

Mayor Pennino did not believe it was ever the intent of Council to transfer a portion of the MCA to the general fund. It was his understanding that all of the MCA was to pay for generation.

Council Member Nakanishi agreed with Ms. Howard's earlier comments and did not support changing the policy. He reported that last year the City spent an additional \$10 million due to the high cost of energy. With the MCA, the City will only recoup \$6 million. He stated that \$4 million of electricity was given to the citizens of Lodi.

Mayor Pro Tempore Hitchcock pointed out that it was not known how long the MCA would be in effect, and found it difficult to believe that an amount was determined and budgeted for in a document prepared so far in advance. She felt that taking \$900,000 from the MCA would be a tax because it was not designated in the budget as an in-lieu of transfer. She suggested taking the \$900,000 out of the City's \$3.4 million undesignated reserve.

Council Member Nakanishi commented that he had previously asked the City Manager why the MCA was being considered instead of using reserves.

In response, City Manager Flynn acknowledged that that would have been one approach, but it would have been inconsistent with the City's policy. When staff made the revenue estimates for the year, it was anticipated that there would be an increase in electric rates.

Council Member Nakanishi reiterated his opinion that the City's policy of transferring 12% should not be changed at this time, and noted that he did not see this as an increase in rates or any type of tax.

Mr. Flynn asked Mr. Vallow if a \$900,000 reduction in the transfer would result in a decrease in rates, to which Mr. Vallow replied that it would not.

MOTION / VOTE:

Mayor Pro Tempore Hitchcock made a motion, Pennino second, to direct staff to return the \$900,000 transfer from the Market Cost Adjustment to Electric Utility, and that a reconciliation of the funds be made from different sources, with concurrence of Council, prior to the next budget session.

DISCUSSION:

Council Member Land explained that he would be voting against the motion, as he preferred that discussion regarding funds and possible reduction of services and programs be made prior to eliminating the \$900,000 transfer.

VOTE:

The motion **failed** by the following vote:

Ayes: Council Members – Hitchcock and Mayor Pennino

Noes: Council Members – Howard, Land, and Nakanishi

Absent: Council Members – None

Council Member Land stated that he would like Council, sometime in the future, to address the issue of how the \$900,000 could be absorbed.

No further action was taken.

- I-5 "Approve the sale of approximately \$31,445,000 Certificates of Participation (COPs) to refund the current General Fund COPs and provide proceeds through new COP financing for construction of General Fund Capital projects"

Alex Burnett of Public Financial Management reported that Fitch, an independent national rating agency, gave the City of Lodi an A+ rating, which reflects its good financial position, low debt burden and healthy, though somewhat concentrated, economy. The rating also incorporates the solid lease structure and the City's excellent management policies and practices. The City's financial position is characterized by adequate reserve levels, diverse general fund revenues, and conservative multi-year budgeting, along with prudent long-term planning. The local area economy is heavily reliant on agriculture with some concentration in its established and growing winegrape industry; however, recent industrial and residential should continue to benefit the City's overall economic position.

Mr. Burnett stated that there has been a substantial run up of rates, primarily since mid-November, which is not favorable for the refunding. Originally it was determined that the public safety project would be \$18 million and in March 2000 the debt service was calculated at 6%, which translated to approximately \$1.58 million. There is an assumed cash contribution of \$4.5 million from accumulated City funds, as well as the \$4 million state grant. "Other Projects," which were previously at \$3.5 million, has been increased to \$8.5 million. The parking line item, which was listed at \$5 million under the public safety complex, has been struck. It was Council's recommendation that the parking structure would not be identified specifically and would be contained in "Other Projects." There is also \$13.2 million remaining for the refunding of the existing COPs. With the increase in rates the annual savings is decreasing. Currently it is down to \$16,000 gross savings over the term of approximately \$480,000 or present value of \$411,000. Given these rates, it has now dropped to 2.73% savings. Scenario A is for refunding only and produces \$482,000 of savings. Scenario B is for the public safety building alone. Scenarios C and D include the public safety building and \$8.5 million of additional proceeds. From a financing standpoint, there is nothing different between scenarios C and D except the structure of the respective amortization of the bonds, i.e. the scheduled payments. Scenario C would produce aggregate level payments. Scenario D has a step down in the payments from \$2.2 to \$1 million. If Council takes action on the Item tonight, settlement of the transaction could take place at the end of January.

Mayor Pro Tempore Hitchcock noted that she had attended a workshop on bond refinancing, at which attendees were advised that 5% is the minimum for refunding bonds.

Mr. Burnett replied that the industry standard for refunding bonds is generally 3% to 5%. He explained that the 1995-1996 COP encumbered assets, e.g. Hutchins Street Square. By refinancing, the assets are unencumbered and then re-encumbered as part of the new transaction. If it were not included, it would have to be determined that the remaining value of the assets the City is going to lease are equal to the new money's share. As Hutchins Street Square is a particularly valuable asset, it helps to support the overall funding.

City Manager Flynn stated that when the proposed financing was assembled without the existing assets, the remaining value of assets was insufficient for the transaction.

In answer to Council inquiries, Mr. Burnett stated that under federal tax law, the City has to make a representation that there is a reasonable expectation to spend 85% of the proceeds within three years. He recommended scenario C, explaining that it takes the City's current debt and refinances and restructures it over a level basis. It will add an incremental interest expense; however, he felt that this is the time to lock in long-term rates. He added that the City can lock in a shorter term if it wanted to affect the step down structure. He also stated that an aggressive call feature should be pursued to allow

the City to redeem bonds. He confirmed that with a call date the City can also cash in on a portion, or all of it.

Mayor Pennino recommended refinancing \$13.2 million COPs; Public Safety Building \$12 million; and Fire Station #2 \$1 million – for a total of \$26.2 million. He noted that those projects could go out to bid, with construction started this year. The parking structure, remodeling of the old Public Safety Building, DeBenedetti Park, the Aquatics Center, Indoor Sports Center, and Animal Shelter have not yet been designed, and construction would probably not be started until 2004-2005. For this reason he recommended borrowing \$26.2 million, plus \$5 million for design, and subtracting \$7 million from the state grant and set-aside that has been made in the general fund. He suggested doing another COP transaction when costs and locations for the other projects are known.

Council Member Howard explained that the dollar amount initially presented for the other projects was not enough to build the facilities. It was only enough to accumulate approximately \$1.2 million to use toward borrowing money for the other projects.

City Manager Flynn stated that staff's recommendation is scenario C.

Mayor Pro Tempore Hitchcock agreed with Mayor Pennino's recommendation; however, she believed that a lesser amount could be borrowed for design and questioned why there are not sufficient funds in impact fees to pay for design of the projects.

Mr. Flynn distributed to Council a summary of the impact fee balances (filed), and Public Works Director Prima reviewed the report.

Mayor Pro Tempore Hitchcock expressed surprise and disapproval of the small amounts remaining in the impact fee accounts and alleged that money must have been taken out and used for a different purpose than what it was intended for.

Mr. Prima replied that impact fee money has paid for design work of the police facility, and there may have been minor capital purchases for the Police Department as well. A portion of the General City Facilities impact fees paid for the Carnegie Forum basement project and work at City Hall. Numerous projects have been funded out of the Storm Drainage impact fees, including the acquisition of land for DeBenedetti Park (G-Basin). Peterson Park, Katzakian Park, and the acquisition of Roget Park were also paid for with development impact fees.

Mayor Pennino asked staff to provide Council with a report on cash flows of the development impact fees for the last ten years.

#### PUBLIC COMMENTS:

- John Johnson asked questions related to the interest rate on the debt, to which Mr. Burnett responded that it was approximately 5.25% in today's market, and Ms. McAthie stated the investment rate would be about 4.5%. Mr. Johnson expressed concern that a large amount of money is going to be spent on design of the projects, without a determination of how to pay for their construction. He encouraged Council to maximize the borrowing while the opportunity existed.
- Ken Bingaman pointed out that interest rates are at a historic low and urged Council to borrow all the funds for the projects now.

Council Member Land stated that he had presented all four scenarios to some business people in the community and each of them had recommended scenario C.

In reply to Council Member Land, Mr. Flynn stated that there is not enough money in the general fund to pay for the design work on the projects without drawing down reserves. Mr. Prima reported that there were insufficient funds in the impact fee account to pay for the design work.

- Randy Snider, Chairman of the Swimming Pool Task Force, stated that the greatest fear supporters of the projects have is that after the design phase, interest rates will increase and excuses will be made why it is not feasible to borrow for construction. He advised Council to place itself in the best financial position possible to fulfill its commitment to the community for funding the projects.

Mayor Pennino replied that to do that, \$49.1 million in COPs should be borrowed so that money for the projects would be in the bank.

- Tim Greenmyer, representing BOBS, warned Council that interest rates will probably not be this low again and urged them to borrow all it can now.

Council Member Howard pointed out that Council has not been provided with a spreadsheet delineating a \$49.1 million borrowing.

Mayor Pro Tempore Hitchcock did not believe it was cost effective to do the refunding on the Hutchins Street Square debt. She suggested borrowing \$10 million and designating \$3 million for project design.

Council Member Nakanishi stated that this is a window of opportunity due to low interest rates. He believed that the recommendations proposed by Mayor Pennino and Mayor Pro Tempore Hitchcock could result in a \$1 to \$2 million loss, if money is not borrowed now, and rates rise in the coming months. He supported Scenario C.

Mayor Pennino disagreed and stated that Scenario C would cost the City \$150,000 a year.

Council Member Land supported Scenario C and believed that to do anything less, would cost the City in the future. Noting that he did not want to hold up the process, he stated that he would concede to the Mayor's recommendation as long as the money for the design phase of the projects was designated.

In reply to Council Member Land's inquiry, Mr. Burnett recommended that at a minimum, a ten year no premium call date would be explored and closer to the time of pricing he would look at the relative cost of shortening it.

#### MOTION #1:

Mayor Pennino made a motion, Howard second, to approve the sale of approximately \$24.2 million COPs delineated as follows (and as indicated in Scenario E outlined on PFM "Summary of General Fund Alternatives"):

\$26.2 million (*includes the Public Safety Building, Fire Station #2, and  
refinancing COPs*)  
+ \$ 5.0 million (*for design*)  
- \$ 4.0 million (*from State grant*)  
- \$ 3.0 million (*that has been set aside in the General Fund*)

Total = \$24.2 million

#### DISCUSSION:

Council Member Howard suggested an amendment to the motion specifying that it is the desire of the City Council that \$5 million of the total amount be allocated toward design and that the best possible call date on the loan be obtained.

Mayor Pennino commented that this will save the City \$1.4 million annually.

At the request of Council Member Nakanishi, Mr. Burnett reviewed Scenario E on the Summary of General Fund Alternatives report (filed). He explained that the recommendation would be \$18 million of net funding. There would be a \$3 million cash contribution from the City and \$4 million from the state grant. There will be certain reserve requirements and other issuance costs associated with the financing that will incrementally increase the amount of borrowing. Under Scenario E the borrowing is approximately \$27.4 million. The reduced interest expense of Scenario E or F is approximately \$225,000 per year.

Mayor Pro Tempore Hitchcock reiterated that she was not in favor of borrowing more than is needed for design expenses or for refinancing Hutchins Street Square. She preferred Scenario F, as it would save \$8 million in interest charges.

City Attorney Hays advised Council against specifying in the financing documents that a certain amount of money be allocated toward design and suggested that this would more appropriately be done through a separate motion.

Mayor Pennino believed that scenario E gives greater flexibility to borrow more money for projects later and gives the City \$300,000 minimum of debt service.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Howard, Land, Nakanishi, and Mayor Pennino

Noes: Council Members – Hitchcock

Absent: Council Members – None

MOTION #2 / VOTE:

The City Council, on motion of Council Member Land, Howard second, adopted Resolution No. 2002-08 entitled, "A Resolution Of The City Council Of The City Of Lodi Relating To Certificates Of Participation (2002 Public Improvement Financing Project); Approving The Forms Of And Authorizing The Execution And Delivery Of A Site And Facilities Lease, A Lease Agreement, A Trust Agreement, A Certificate Purchase Contract, Escrow Agreements, An Official Statement, And A Continuing Disclosure Agreement, And Approving The Distribution Of A Preliminary Official Statement In Connection Therewith; And Authorizing Certain Other Matters Relating Thereto." The motion carried by the following vote:

Ayes: Council Members – Howard, Land, Nakanishi, and Mayor Pennino

Noes: Council Members – Hitchcock

Absent: Council Members – None

MOTION #3 / VOTE:

The City Council, on motion of Mayor Pro Tempore Hitchcock, Nakanishi second, unanimously adopted Resolution No. 2002-09 designating that \$5 million of the proceeds be used only toward the design of the following six projects:

- Public Safety Building Remodel/Expansion
- Parking Structure
- DeBenedetti Park/G-Basin
- Indoor Sports Facility
- Aquatics Center
- Animal Shelter Facility

J. MEETING OF THE LODI PUBLIC IMPROVEMENT CORPORATION

At 10:40 p.m., Mayor Pennino adjourned the City Council meeting to conduct the meeting of the Lodi Public Improvement Corporation. Following the call to order, Secretary Blackston recorded roll.

MOTION / VOTE:

The Corporation, on motion of Director Hitchcock, Nakanishi second, unanimously 1) approved the sale of approximately \$24.2 million COPs delineated as follows (and as indicated in Scenario E outlined on PFM "Summary of General Fund Alternatives"):

\$26.2 million (includes the Public Safety Building, Fire Station #2, and refinancing  
COPs)  
+ \$ 5.0 million (for design)  
- \$ 4.0 million (from State grant)  
- \$ 3.0 million (that has been set aside in the General Fund)

Total = \$24.2 million

AND 2) adopted Resolution No. LPIC2002-01 entitled, "A Resolution Of The Lodi Public Improvement Corporation Relating To Certificates Of Participation (2002 Public Improvement Financing Project); Approving The Forms Of And Authorizing The Execution And Delivery Of A Site And Facilities Lease, A Lease Agreement, An Assignment Agreement, And A Trust Agreement In Connection Therewith, And Authorizing Certain Other Matters Related Thereto."

There being no further business, the meeting was adjourned at 10:41 p.m. and the City Council meeting was reconvened.

K. ORDINANCES

None.

L. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard disclosed that she had met with Mr. Buzonis previously regarding the property on Locust Street.
- Mayor Pro Tempore Hitchcock commended the Lodi-Tokay Rotary Club for its work in organizing the New Year's Eve celebration. Addressing Public Works Director Prima, she noted that the DeBenedetti Park basin was full recently and questioned whether it is of sufficient size.  
  
Mr. Prima explained that the basin will be enlarged three to four times its current size. He also noted that the system is designed so that that side of town drains after Kofu, Salas, and Beckman Parks, and consequently will be full more often.
- Mayor Pennino stated that he has asked the City Clerk to prepare letters from the Council thanking the Lodi-Tokay Rotary Club for its work coordinating the New Year's Eve celebration and to the Fire Department employees and their families for the Christmas Santa Fire Truck.
- Council Member Land stated that he is expecting his eighth grandchild on May 17<sup>th</sup>. He also agreed that the New Year's Eve celebration was a great success and believed it was time that assistance was provided to the Lodi-Tokay Rotary Club to expand the program.
- Council Member Nakanishi reported that a letter was written by Police Chief Adams to Farmers and Merchants Bank commending Keith Land for his brave act of pulling a woman to safety who had been shot in the bank's parking lot. He also thanked Mayor Pennino for his efforts to remove the railroad tracks on Lodi Avenue.

M. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn commented on the new attire worn by Public Works Director Prima and noted that Doug Hintz is retiring on January 3 after 31 years of service in the Fire Department.  
  
Finance Director McAthie thanked Alex Burnett for being present at tonight's meeting and commented that his wife is expecting their first child.

*Continued January 2, 2002*

N. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:47 p.m.

ATTEST:

Susan J. Blackston  
City Clerk